

Dorgan	Kennedy	Reed
Durbin	Kohl	Reid
Edwards	Kyl	Roberts
Ensign	Landrieu	Rockefeller
Enzi	Lautenberg	Santorum
Feingold	Leahy	Sarbanes
Feinstein	Levin	Schumer
Fitzgerald	Lieberman	Sessions
Frist	Lincoln	Shelby
Graham (FL)	Lott	Smith
Graham (SC)	Lugar	Snowe
Grassley	McCain	Specter
Gregg	McConnell	Stabenow
Hagel	Mikulski	Stevens
Harkin	Miller	Sununu
Hatch	Murkowski	Talent
Hollings	Murray	Thomas
Hutchison	Nelson (FL)	Voivovich
Inhofe	Nelson (NE)	Warner
Inouye	Nickles	Wyden
Johnson	Pryor	

NOT VOTING—2

Jeffords

Kerry

The nomination was confirmed.

NOMINATION OF GENE E. K. PRATTER TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania. The clerk will call the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 117 Ex.]

YEAS—98

Akaka	Corzine	Inhofe
Alexander	Craig	Inouye
Allard	Crapo	Johnson
Allen	Daschle	Kennedy
Baucus	Dayton	Kohl
Bayh	DeWine	Kyl
Bennett	Dodd	Landrieu
Biden	Dole	Lautenberg
Bingaman	Domenici	Leahy
Bond	Dorgan	Levin
Boxer	Durbin	Lieberman
Breaux	Edwards	Lincoln
Brownback	Ensign	Lott
Bunning	Enzi	Lugar
Burns	Feingold	McCain
Byrd	Feinstein	McConnell
Campbell	Fitzgerald	Mikulski
Cantwell	Frist	Miller
Carper	Graham (FL)	Murkowski
Chafee	Graham (SC)	Murray
Chambliss	Grassley	Nelson (FL)
Clinton	Gregg	Nelson (NE)
Cochran	Hagel	Nickles
Coleman	Harkin	Pryor
Collins	Hatch	Reed
Conrad	Hollings	Reid
Cornyn	Hutchison	Roberts

Rockefeller	Smith	Talent
Santorum	Snowe	Thomas
Sarbanes	Specter	Voivovich
Schumer	Stabenow	Warner
Sessions	Stevens	Wyden
Shelby	Sununu	

NOT VOTING—2

Kerry

Jeffords

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. WARNER. Mr. President, the Senator from Connecticut wants to modify an amendment at the desk. I suggest he lead off. The Senator from Missouri wishes to speak for about 5 or 6 minutes, the Senator from Rhode Island for whatever time he may wish, 5 or 10 minutes, and then Senator DURBIN also would like to speak. So, Mr. President, is that an order which is agreeable to my colleagues?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Of course, there will be no more votes tonight. We do anticipate a very active day tomorrow, and the leadership is in the process of working out the sequencing of events tomorrow.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 3313, the amendment by the Senator from Connecticut.

AMENDMENT NO. 3313, AS FURTHER MODIFIED

Mr. DODD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. WARNER. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3313), as further modified, is as follows:

On page 195, between lines 10 and 11, insert the following:

SEC. 868. PROHIBITIONS ON USE OF CONTRACTORS FOR CERTAIN DEPARTMENT OF DEFENSE ACTIVITIES.

(a) PROHIBITION ON USE OF CONTRACTORS IN INTERROGATION OF PRISONERS.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the use of contractors by the Department of Defense for the interrogation of prisoners, detainees, or combatants at any United States military installation or other installation under the authority of United States military or civilian personnel is prohibited.

(2)(A) During fiscal year 2005, the President may waive the prohibition in paragraph (1) with respect to the use of contractors to provide translator services under that paragraph if the President determines that no

United States military personnel with appropriate language skills are available to provide translator services for the interrogation to which the waiver applies.

(B) The President may also waive the prohibition in paragraph (1) with respect to any other use of contractors otherwise prohibited by that paragraph during the 90-day period beginning on the date of the enactment of this Act, but any such waiver shall cease to be effective on the last day of such period.

(3) The President shall, on a quarterly basis, submit to the appropriate committees of Congress a report on the use, if any, of contractors for the provision of translator services pursuant to the waiver authority in paragraph (2)(A).

(b) PROHIBITION ON USE OF FUNDS.—No funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the utilization of contractor personnel in contravention of the prohibition in subsection (a), whether such funds are provided directly to a contractor by a department, agency, or other entity of the United States Government or indirectly through a permanent, interim, or transitional foreign government or other third party.

(c) PROHIBITION ON TRANSFER OF CUSTODY OF PRISONERS TO CONTRACTORS.—No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of a contractor or contractor personnel.

(d) RECORDS OF TRANSFERS OF CUSTODY OF PRISONERS TO OTHER COUNTRIES.—(1) No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of another department or agency of the United States Government, a foreign, multinational, or other non-United States entity, or another country unless the Secretary makes an appropriate record of such transfer that includes, for the prisoner, detainee, or combatant concerned—

(A) the name and nationality; and

(B) the reason or reasons for such transfer.

(2) The Secretary shall ensure that—

(A) the records made of transfers by a transferring authority as described in paragraph (1) are maintained by that transferring authority in a central location; and

(B) the location and format of the records are such that the records are readily accessible to, and readily viewable by, the appropriate committees of Congress.

(3) A record under paragraph (1) shall be maintained in unclassified form, but may include a classified annex.

(e) REVIEW OF UNITED STATES POLICY ON USE OF CONTRACTORS IN COMBAT OPERATIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Secretary's review of United States policy on the use of contractors in combat operations.

(2) The report under paragraph (1) shall identify and review all current statutes, regulations, policy guidance, and associated legal analyses relating to the use of contractors by the Department of Defense, and by other elements of the uniformed services, in routine engagements in direct combat on the ground, including any prohibitions and limitations on the use of contractors in such engagements.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Foreign Relations, and the Judiciary of the Senate and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, International Relations, and the Judiciary of